

RECEIPT # 59122
 AMOUNT \$ 150
 SUMMONS ISSUED 1
 LOCAL RULE 4.1
 WAIVER FORM
 MCF ISSUED 9/8
 BY DPTY. CLK. 10-6-04
 DATE

UNITED STATES DISTRICT COURT
 for the
 DISTRICT OF MASSACHUSETTS

DEBORAH ANN LEONARDO, as)
 proposed administratrix of the estate)
 of MICHAEL J. LEONARDO)
)
 V.)
)
 NANCY-CHRISTINE, INC., F/V NANCY)
 CHRISTINE, her commercial fishing licenses,)
 permits, limited entry rights, quotas, moratorium)
 permits/licenses and all other fishing rights, history,)
 privileges, or entitlements arising from, issued to,)
 attaching to, or appurtenant to said vessel, and the)
 proceeds of its hull insurance policy, *in rem*)
)

PLAINTIFF'S COMPLAINT
 AND DEMAND FOR JURY
 TRIAL

Civil Action
 No. _____

MAGISTRATE JUDGE L. Chen

PARTIES AND JURISDICTION

1. Plaintiff has submitted a petition for appointment as administratrix of the Estate of Michael J. Leonardo with the Probate Court for the Commonwealth of Massachusetts, Bristol County Division. Deborah Ann Leonardo is a resident of New Bedford, Massachusetts and brings the within action as a proposed personal representative of the estate, heirs at law and next of kin of Michael J. Leonardo.

2. Defendant Nancy-Christine, Inc. is a Massachusetts corporation and was the owner of the F/V NANCY CHRISTINE. The defendant was operating the F/V NANCY CHRISTINE within the Federal Judicial District in which this action is commenced.

3. This action is brought under the Admiralty Law as modified by the Jones Act, 46 U.S.C. §688, the Death on the High Seas Act, 46 U.S.C. § 761 et seq., the General Maritime Law, and the Court's Admiralty Jurisdiction pursuant to 28 U.S.C. § 1333. Nothing in these jurisdictional allegations is to be construed as a waiver of the plaintiff's right to a jury trial in

plaintiff's action at law under the Jones Act, nor of the right to have all of the claims asserted herein tried to a jury.

COUNT ONE
NEGLIGENCE AND UNSEAWORTHINESS OF F/V NANCY CHRISTINE

4. Plaintiff hereby incorporates the allegations set forth in paragraphs 1 through 3 above as if fully set forth herein.

5. At all times material hereto defendant owned, possessed, managed, operated and controlled the F/V NANCY CHRISTINE.

6. At all times relevant hereto, defendant had a duty to exercise reasonable care to provide a safe and seaworthy vessel on which to work, and to operate or have the vessel operated in a safe and proper manner.

7. On or about September 12, 2004, and at all times mentioned herein, decedent, Michael J. Leonrado, was employed by the defendant as a member of the crew of the F/V NANCY CHRISTINE in the capacity of a fisherman.

8. On or about September 12, 2004, the F/V NANCY CHRISTINE was caused to sink by the unsafe and unseaworthy condition of the vessel, as well as the negligent operation of the vessel by defendant's agent(s), servant(s), and employee(s).

9. On or about September 12, 2004, as a result of the sinking of the F/V NANCY CHRISTINE, decedent, Michael J. Leonardo, was declared missing at sea. On or about the second day following the sinking of the vessel, Michael J. Leonardo's body was found. Decedent's death was a direct and proximate result of the unsafe and unseaworthy condition of

the vessel, as well as the negligent operation of the vessel by defendant's agent(s), servant(s), and employee(s).

10. At the time decedent entered defendant's employ, he was a strong, robust and able-bodied person with a substantial earning capacity and prospects of advancement in earning capacity.

11. As a direct and proximate result of the unsafe and unseaworthy condition of the vessel, as well as the negligent operation of the vessel by defendant's agent(s), servant(s), and employee(s), the decedent suffered unnecessary and severe mental anguish, shock and pain before his death.

12. Plaintiff makes a claim for damages on behalf of the estate, heirs at law and next of kin of Micahel J. Leonardo for the economic value of decedent's normal life expectancy.

13. Plaintiff makes claim for damages on behalf of the estate, heirs at law and next of kin of Michael J. Leonardo for the burial expenses and other expenses in connection with the funeral and burial of the decedent.

14. Plaintiff makes claim for damages on behalf of the estate, heirs at law and next of kin of Micahel J. Leonardo for the damages due as a result of the conscious pain and suffering endured by decedent.

15. Plaintiff makes claim for damages on behalf of the estate, heirs at law and next of kin of Michael J. Leonardo for the pecuniary loss suffered by decedent's surviving heirs and next of kin who were financially dependent on the decedent.

16. Plaintiff makes claim for damages on behalf of the estate, heirs at law and next of kin of Michael J. Leonardo for the pecuniary value of the loss of companionship, society, love, affection, nurture, guidance, inheritance, educational support, and services of the decedent.

17. The foregoing injuries entitled the plaintiff to a maritime lien enforceable *in rem* proceedings against the vessel, its commercial fishing licenses, permits, limited entry rights, quotas, moratorium permits/licenses and all other fishing rights, history privileges, or entitlements arising from, issued to attaching to, or appurtenant to said vessel, as well as the proceeds of its hull insurance policy, pursuant to Supplemental Admiralty Rule C.

18. Plaintiff is entitled to perfect said client in this proceeding by having said commercial fishing license, permits, limited entry rights, quotas, moratorium permits/licenses and all other fishing rights, history privileges, or entitlements arising from, issued to attaching to, or appurtenant to said vessel, arrested, pursuant to the Federal Rules of Civil Procedure Supplemental Rules for Certain Admiralty and Maritime Claims.

WHEREFORE, plaintiff prays that

- a. Judgment be entered against the defendant for the damages set forth herein, as well as interest, costs and counsel fees as the Court may deem just and proper.
- b. That a warrant for the arrest of the F/V NANCY CHRISTINE'S commercial fishing licenses, permits, limited entry rights, quotas, moratorium permits/licenses and all other fishing rights, history privileges, or entitlements arising from, issued to attaching to, or appurtenant to said vessel, pursuant to Rule C of the Supplemental Rules of Certain Admiralty and Maritime Claim of the Federal Rules of Civil Procedure;
- c. That all persona having or claiming to have any interest therein be cited to appear and answer under oath, all and singular that matter aforesaid;
- d. That the plaintiff's claims be adjudged separately valid and enforceable maritime liens against the whole of the vessel, its commercial fishing licenses, permits, limited entry rights, quotas, moratorium permits/licenses and all other fishing rights, history privileges, or

entitlements arising from, issued to attaching to, or appurtenant to said vessel, as well as the proceeds of its hull insurance policy, together with all and an *in rem* judgment enter in her favor against the Defendant for the full amount of the damages together with costs, interest, attorneys fees and other damages which may be shown at trial;

e. That said commercial fishing licenses, permits, limited entry rights, quotas, moratorium permits/licenses and all other fishing rights, history privileges, or entitlements arising from, issued to attaching to, or appurtenant to said vessel, be condemned and sold to pay the amount due the Plaintiff, together with costs, interest, attorneys fees and other damages which may be shown at trial; and

f. That the Plaintiff have such other and further relief as the Court and justice may deem just and appropriate under the circumstances of the cause.

Respectfully submitted
for the Plaintiff,
Deborah Ann Leonardo,
by her attorneys,



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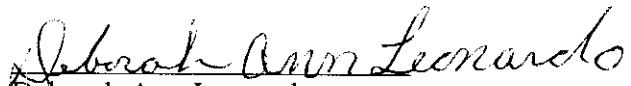
Dated: 10/5/04

VERIFICATION

I, Deborah Ann Leonardo, hereby being duly sworn and depose and says that:

I am the Plaintiff in the above entitled matter. I have read the foregoing Verified Complaint and I know the contents thereof and the same are true to the best of my own knowledge, except as the matters therein stated to be upon information and belief, and unto those matters, I believe them to be true.

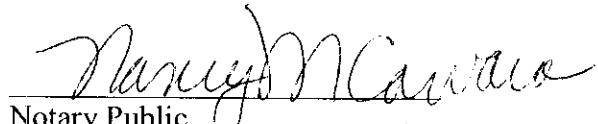
Signed under the pains and penalties of perjury on this 5 day of October 2004.


Deborah Ann Leonardo

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

Subscribed and sworn to before me this 5th day of October, 2004


Nancy M. Carvalho
Notary Public

My commission expires: 7/7/06